

#241 Reply Brief  
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PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re PATENT APPLICATION of

Nobuyuki KAWAI et al.	)	
	)	
Appln. No.: 08/904,312	)	Group: 2746
	)	
Filed: July 31, 1997	)	Examiner: L. Nguyen
	)	
For: METHOD AND APPARATUS FOR TRANSMITTING DATA	)	Atty Dkt: 2918.11008

**REPLY BRIEF**

Assistant Commissioner of Patents  
Washington, D.C. 20231

Sir:

This Reply Brief is submitted, in triplicate, in response to the Examiner's Answer (Paper No. 23) dated June 28, 2002, and under the provisions of 35 U.S.C. § 134 and 37 C.F.R. § 1.193 in support of an appeal from the final rejection of claims 1-4, 9-16, 19-24, 27-30, 31/1/2, 31/9, 31/11/12/13, 31/19/20, 31/27/28, 32/3/4, 32/10, 32/14/15/16, 32/22/23, 32/29/30, 33/9, 33/11/12/13, 33/19/20, 33/27/28, 34/10, 34/14/15/16, 34/22/23, 34/29/30 and 35-38 of the above-captioned patent application. Appellants respectfully request entry of this Reply Brief in response to the Examiner's Answer.

While Appellants believe that no additional fees are required for the submission of this Reply Brief, a general authorization under 37 C.F.R. § 1.25(b), second sentence, is hereby given

to credit or debit Deposit Account No. 19-0733 for the instant filing and for any other fees during the pendency of this application under 37 C.F.R. §§ 1.16, 1.17 and 1.18.

### **REMARKS**

The Examiner's Answer contains no new grounds of rejection. The Examiner, however, has raised two (2) new points of argument. Specifically, the first new point of argument relates to Issue 1 and appears at page 16, line 17, through page 17, line 15, of the Examiner's Answer. The second new point of argument relates to Issue 3 and appears at page 19, lines 12, through page 20, line 2, of the Examiner's Answer.

#### **Issue 1: Claims 19-24 and 27-30 (Group 1)**

Regarding the Examiner's first new point of argument (page 16, line 17, through page 17, line 15, of the Examiner's Answer), the Examiner asserts that the system of Spragins can be modified as a point-to-multipoint communication system with the error correction of Fujikura, but the Examiner still has not specifically identified where either Spragins or Fujikura suggest that the Spragins point-to-point system can be modified to become a point-to-multipoint system. Appellants respectfully submit that rationale proffered by the Examiner for modifying Spragins, i.e., for improving the "system's throughput and, therefore, the bandwidth," is tenuous at best. Both Appellants and the Examiner agree that Spragins conserves bandwidth by sending only frames that have requested to be retransmitted before transmitting any new frames (i.e., retransmitting "[o]nly the erroneous frame"). (See Spragins, page 328, lines 31-33, and Figure 7.13(b).) Fujikura, on the other hand, conserves bandwidth by responding to a request for

retransmitting an abnormally received frame by transmitting the requested frame in advance of transmission of different frames that have not been transmitted yet. (See Fujikura, column 7, lines 20-31.) Thus, both Spragins and Fujikura conserve system bandwidth using the same general error correction technique, that is, by only sending frames that have been requested to be retransmitted before transmitting any new frames.

Appellants respectfully submit that while both Spragins and Fujikura generally conserve bandwidth the same way, the Examiner has not identified how modifying Spragins by Fujikura, as proffered, further improves system throughput and, therefore, bandwidth other than by making the mere assertion that there would be an improvement. Further, the Examiner is silent as to why one of ordinary skill in the art would even consider modifying the system of Spragins by another system using the same general error correction technique (i.e., the system of Fujikura) to further improve system throughput and, therefore, bandwidth.

Moreover, as discussed below in connection with the Examiner's second new point of argument regarding Issue 3, Appellants respectfully submit that delay considerations associated with a point-to-point system are sufficiently different from the delay considerations associated with a point-to-multipoint system that the Examiner's proffered modification of Spragins from a point-to-point system to a point-to-multipoint system would not be considered by one of ordinary skill in the art.

Thus, Appellants continue to respectfully submit that it is only because of Appellants' disclosure that the Examiner can select particular features of Spragins and Fujikura to make the rejection.

**Issue 3:        Claims 9 and 10 (Group 3)**

Regarding the Examiner's second new point of argument (page 19, lines 12, through page 20, line 2, of the Examiner's Answer), Appellants respectfully submit that if the example of Fig. 7.13(b) were intended by Spragins to show that an error status signal is transmitted after every three (3) frames, as urged by the Examiner, then it would be unnecessary for Spragins to explicitly set the poll bit every third frame for eliciting an error status signal. Appellants respectfully submit that the three (frames) illustrated in Fig. 7.13(b) (and referred to by the Examiner as the claimed predetermined number) is really nothing more than a convenient timeframe used by Spragins for illustrating SREJ recovery in an HDLC-based system. Further, a conclusion that Spragins discloses an error status signal that is transmitted every three frames is without basis.

Moreover, the simple textbook example of Spragins allows the Examiner to characterize Spragins as teaching that a new frame (frame 1,2,0,P in Fig. 7.13b), which has not previously been transmitted, is transmitted only if the sequence order (sequence order 2) of the new frame is less than a predetermined number (sequence order 3 of frame 1,3,0) greater than 1 in this the sequence order of the earliest of the frames (frame 1,1,0) which has not been received by any one of local stations. Appellants respectfully submit that Spragins discloses nothing regarding broadcasting a new frame that has not been previously broadcast only if a sequential order of the new frame is not greater than a sequence order the earliest of the frames that has been indicated to not have been received by any one of the claimed receiving stations by a predetermined

number. Appellants respectfully submit that the Examiner has plainly created this characterization of Spragins based on Appellants' disclosure, not on the disclosure of Spragins.

Additionally, Appellants respectfully submit that the Spragins point-to-point system only accommodates the highly predictable delay expected for a single error correction request signal that is received from a single receiving station. Consequently, Spragins has no capability to accommodate error correction request signals that are received from any of a plurality of receiving stations and that may accordingly have different delays (caused by both processing at the receiver and bi-directional propagation delay). Thus, Appellants respectfully submit that the Examiner is apparently ignoring fundamental system characteristics of a point-to-point system when asserting that Spragins is applicable to point-to-multipoint system.

Again, Appellants respectfully submit that the three (frames) referred to by the Examiner as the claimed predetermined number is really nothing more than a convenient timeframe used by Spragins for illustrating SREJ recovery in an HDLC-based system.

### **CONCLUSION**

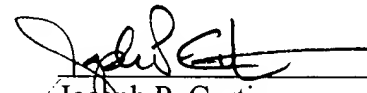
It is respectfully submitted that this Reply Brief complies with the requirements of 37 C.F.R. 1.193(b) in specifically identifying the new points of argument raised in the Examiner's Answer. Accordingly, it is respectfully requested that the Examiner enter this Reply Brief.

For the foregoing reasons and the reasons set forth in the Appeal Brief, Appellants respectfully submit that claims 1-4, 9-16, 19-24, 27-30, 31/1/2, 31/9, 31/11/12/13, 31/19/20, 31/27/28, 32/3/4, 32/10, 32/14/15/16, 32/22/23, 32/29/30, 33/9, 33/11/12/13, 33/19/20, 33/27/28,

34/10, 34/14/15/16, 34/22/23, 34/29/30 and 35-38 are patentable over the applied combinations of art, and respectfully request that the final rejection of claims 1-4, 9-16, 19-24, 27-30, 31/1/2, 31/9, 31/11/12/13, 31/19/20, 31/27/28, 32/3/4, 32/10, 32/14/15/16, 32/22/23, 32/29/30, 33/9, 33/11/12/13, 33/19/20, 33/27/28, 34/10, 34/14/15/16, 34/22/23, 34/29/30 and 35-38 be reversed.

Respectfully submitted,

August 26, 2002



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	<b>Filing Date</b>	July 31, 1997	
	<b>First Named Inventor</b>	Kawai et al.	
	<b>Group Art Unit</b>	2746 2645	
	<b>Examiner Name</b>	L. Nguyen	
<b>Total Number of Pages in This Submission</b>		<b>Attorney Docket Number</b>	002918.11008

ENCLOSURES (check all that apply)		
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Date	August 26, 2002

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